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CONSERVATION COMMISSION

MEETING AGENDA

January 27, 2011

Beginning at 7:30 p.m.

City Hall, Room 209

Meeting called to order at 7:40 p.m.

MEMBERS PRESENT: I. Wallach, (Chair), S. Lunin, J. Hepburn, D. Dickson, J. Sender (Alternate), and D. Green, (arrived at 7:45)

MEMBERS ABSENT: D. Dickson, N. Richardson, R. Matthews

MEMBERS OF THE PUBLIC: See attached sign-in sheet

Chair Wallach appointed J. Sender to be voting member, in absence of quorum, to open the meeting.

Environmental Science Program- Dave Backer

Report: Environmental Science Club will try to reserve at least one day to work on conservation project as recommended by Sr. Planner.

Meeting: Mr. Backer reported the program is doing very well and has a strong enrollment. Financially, it is in the black, although they did not complete the application for 501(c)(3) status as a non-profit. The program pays the city for the use of Bowen School. They are selling t-shirts and a thermos to raise funds for the program, and collecting donations. The Newton comptroller has suggested donations to them may be tax-deductible, since they are to a government agency. The program just sent out brochures. They will be at several events this year, and will try to do a project for the commission, perhaps weeding the bio-retention swales at Hammond Pond.

Officer Torres- At the request of the Commission, regarding off-leash dogs in conservation areas.

Report: Packet includes **cover letter and Self Help Program Agreement** for purchase of Norumbega as conservation area.

Meeting: Officer Torres did not attend. At the beginning of the meeting, attendees who had come to hear the discussion were advised the commission will not discuss anything to do with Norumbega conservation area at this meeting. At the December meeting, it was announced that the discussion would be continued to the February 24th meeting.

34 Farwell St. NOI continued-proposal to keep home addition, garage and paving in the 200 ft riverfront to the Charles River and a portion of which is in the 100 ft buffer to bank.

Report: New plans dated December 6th and 7th and comments from DEP were reviewed. Frank Nichols, Terry Morris, and Env. Planner met on 1/11/11 to discuss outstanding issues. We agreed Mr. Morris would provide a new plan(s) showing and tabulating amount of 1) impervious surface area at time of 1982 filing, existing impervious condition, and proposed impervious condition, with accompanying calculations of impervious area for the commission's consideration, 2) removal of existing granite curbing (portion of island) re-drawn to encompass shift in parking spaces toward the front of the lot but keeping the proposed number, 3) planting plan

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indicating proposed size and species of mitigation plantings, 4) a written plan describing timing and details of removal of concrete steps and re-stabilization of slope, 5) an O & M plan for storm water BMPs, to include a snow management plan, and 6) applicant should submit a timeline for completion of work, since this is an after-the-fact filing, and the work agreed to is required to bring the lot into compliance with the WPA. The planting area at 56 Farwell should be an on-going condition. New plan is in your packet in response to my comments and requested information, but I am still awaiting a revised planting plan and updates to the plans to remove concrete steps.

Meeting: Terrence Morris was present to represent the project. A new plan has been submitted to the Environmental Planner, and an earlier version is in the packets. The applicant was responsive to all of the Planner's suggestions, so that Mr. Morris has provided a new plan(s) showing and tabulating amount of impervious surface area at time of 1982 filing, existing impervious condition, and proposed impervious condition, with accompanying calculations of impervious area for the commission's consideration, the garage and parking have been pulled closer to the street and farther from the river, the plan and notes describe removal of the concrete steps on DCR property, and provide a plant list and number of native woody vegetation to be planted for mitigation. D. Green asked about a maintenance plan and snow removal. Mr. Morris responded there is a written O & M plan for storm water BMPs with an area shown on the plan showing where to store snow. I. Wallach asked about the timeline, and T. Morris said there is a construction note on the plan indicating all mitigation shall be complete by June 15th of 2011.

Planner added that

- 1) **Plant schedule on Topo & Drain Plans specifies 10 trees and 20 shrubs** – need plant schedule that specifies what plants go where – which on 34 Farwell and which on state land, since OOC should not apply on-going condition to state land/restoration, but should to 34 Farwell and this will provide an objective basis to evaluate compliance.
- 2) **O&M plan for leaching galleys should be made part of Order** – can be supplied to planner (and to owner) prior to issuance of COC.
- 3) **Applicant should stipulate the sq footage of the mitigation area on DCR land to be at least 10 ft x the length of the back lot line of 34 Farwell St.** in area regardless of the actual shape of the area.

Planner recommends the mitigation planting on DCR property shall serve as mitigation (instead of re-grading slope as required under the 1983 Order of Conditions (DEP 239-94)), for the prior (implied) violation. Applicant should file for a Cert. of Compliance for this old Order when mitigation completed, with report that the addition was not constructed, and the violation was corrected by the current Order. Applicant should request the commission lift EO at same time.

Motion by D. Green to issue an Order of Conditions with standard conditions and special conditions that are mentioned on plan, plus on-going condition on the maintenance plan, above 1-3 recommendations, no fertilizer be used in mitigation area, and that the planting area on 34 Farwell St. shall be an on-going condition. Second by S. Lunin. Vote: All in favor. Motion passed.

1 Nonantum Rd. NOI-DCR proposes to repair & replace 3 culverts between Maple St. and the Daly Rink in conjunction with the re-development of Nonantum Road in the 200 ft riverfront to the Charles and the 100 ft buffer to bank.

Report: Section 3.2 of Notice indicates that a break in the pipe near the Skating Rink has existed so long that there is a good stand of cattails, and the site has been delineated as a wetland in earlier filings. Currently, the outfalls are underwater, where any release of sediment cannot be monitored. A second pipe, near Maple is also broken and has created a large erosion gully. This plan will move the outfalls above the bank (restoring bank in

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the process), and re-design the outfalls to try to prevent future erosion. Fill in flood zone (addition of culverts and rip-rap) will be offset by first removing an equal amount of soil material to maintain grade. Applicant provided estimations of amount of fill (culvert and rip-rap) and amount (and disposition) of material to be removed for proof that no change in flood storage capacity will occur. Cannot do site visit until more of snow is gone. Recommend 1) all pipe below new construction should be removed completely – silt curtains should be in place and Planner on site to watch removal to see how much silt released; 2) eroded areas of bank shall be temporarily stabilized with jute netting anchored to the slope, then area seeded with an approved seed mix; area shall not be considered re-stabilized until at least 80% cover from the seeded vegetation is obtained. Planner previously requested written description of silt curtain deployment and recovery to describe how release of silt would be prevented. I do not have that, yet.

Meeting: Robert Lowell, DCR engineer, was present. DCR consultant had car trouble and likely would be very late or not make it to the meeting. R. Lowell said the 3 outfall pipes have not been functioning properly, and DCR wants to repair them in conjunction with the Nonantum Road improvements to prevent flooding, for one. When asked whether MA DOT now “owned” Nonantum, Mr Lowell said DCR still owns it, but MA DOT is in charge of the improvement project. There is still some concern by Planner that the design for a plunge pool for the outlet near the Daly Rink does not avoid impacts to the bank that could be avoided by pulling the pipe much further back from the bank and using native vegetation to break its force and prevent erosion instead of rock. If flow is as strong as DCR indicates, it may overshoot or overflow the pool to cause damage to the bank. Pulling the pipe further back and directing the flow through vegetation would have the added benefit of removing some phosphorus from the storm water. DCR is concerned the water may pond and possibly expand the standing water in the area. Planner recommends asking applicant to continue for opportunity of site visit when snow melts and to discuss designs for this pipe further. DCR has also confirmed that one of the two pipes at Maple Street belongs to City of Newton, and they would like a written statement of permission from the City to repair the pipe. Applicant agreed to continue to the Feb. 24th meeting.

483 Dedham St. Charles River Country Club NOI – Proposal is to re-grade the 15th Fairway to “previous conditions, pre-1978” which will steepen the slope. A temporary access road is proposed through bordering vegetated wetland.

Report: 1) Applicant’s delineation of perennial and intermittent streams and limits of bordering vegetated wetland cannot easily be confirmed with existing snow cover. No site visit has been conducted at this time. 2) Country Club Brook (the “Drainage Channel” shown on the plan) also has a 30 ft flood zone (Watershed/Floodplain Ordinance Sec. 22-22) associated with it, which is **not shown on the plan**. 3) This is new development (310 CMR 10.58(4)) of 9000 sf of riverfront; the limit on new development is 10%, and applicant provides figure of 100,000 sf+ of riverfront area on site. However, most (over one half) of proposed work is out of resource areas and buffer zones. 4) The alternatives analysis presented is inadequate because it does not show how the project will “avoid, minimize and mitigate” impact to jurisdictional resource areas. Proposed access does not avoid impact to wetland, since applicant has an alternate route that minimizes impact to wetlands by going outside of most BVW (applicant says cannot use this route because of private property – that is incorrect – this cart path follows the CRCC property around to Nahanton St., and can be accessed from there). Even if tracked vehicles do little harm, as claimed by EcoTec report, installation of haybales and silt fence will disturb the ground – just because applicant does not want to use this path is not adequate under the WPA.



5) Applicant could re-grade part of slope that is outside all jurisdictional areas and buffer zone and leave the rest alone. Re-grading slope (to make it **more steep**) will increase the rate of run-off, which may increase downstream flooding and contribute to pollution by washing off fertilizers at a greater rate. No input to the contrary, the Commission must assume this area serves to protect the interests of the Act (10.03, burden of proof is on the applicant). Applicant needs to show, “1. That the area is not significant to the protection of any of the interests identified in M.G.L. c. 131, sec. 40; or 2 that the proposed work within a resource area will contribute to the protection of the interests identified... by complying with the general performance standards...” (see 10.03 (1)(a)1-3).

5) Planting native vegetation in riverfront is an exempt minor act. If applicant proposes planting native vegetation as *mitigation*, then applicant should provide planting and maintenance plan. Species (mixed, rather than a monoculture), size, location and limits of planting area should be shown on planting plan and plantings should be on-going condition. No fertilizers should be used.

6) CRCC has **three (3) prior OOCs that have not been closed out**, and for which Martha sought closure unsuccessfully. One of these was for a management plan, under which some work was done, but the commission has seen no update and the club may still be using it without a recent review for whether it is still appropriate. Recommend applicant continue for additional information (site visit without snow), including documentation of any and all work performed under old Orders, and certify that no on-going work is proceeding under expired Orders.

Meeting: Paul Blanus, Manager, Paul McManus, EcoTec, and Stephen Buchbinder, attorney, appeared for the applicant. Abutter notifications submitted. Commission members asked applicant’s representatives to explain why they cannot use alternate route to avoid wetland. The cart path alternative route includes a bridge with sides that narrow its width to ~ 6 ft, while the other bridge has no sides and is 9 ft wide, which would better accommodate the equipment used for grading. Planner responded that a temporary “bridge” could be constructed next to the downstream cart path. The applicant said the machinery is not much heavier than mowing machinery driven through and over wetlands constantly, and that the tires/wheels and wooden rollers will distribute the weight and limit soil compression and other damage to the surface. Planner noted the applicant could avoid impacts to the riverfront by re-grading only outside the riverfront. The applicant said it would be hard to match grades with the un-altered area. The chair asked the purpose of the project. The applicant said the purpose of the project is to restore the topography to the 1978 condition, in which the slope was planted more “naturally” as a “meadow”. The current plan would incorporate taller grasses and lowbush blueberry, and would be mown just once a year.

The commission asked about prior Orders that have expired but not received a Certificate of Compliance. S. Buchbinder presented the commission with a status report for each of 4 prior Orders issued to CRCC that have not been closed. Env. Planner will review. Applicant suggested continuing to March 24th meeting to address old Orders and provide time for snow to melt for a site visit. Commission members agreed.

9:10 p.m. The commission recessed.

9:20 p.m. The commission re-convened.

311 Albemarle Rd. NOI- Proposal to demolish a single family house and re-build a new single-family house and garage in the 200 ft riverfront to Cheesecake Brook.

Report: Applicant proposes to greatly increase the amount of impervious area on the lot, almost all of which is in the 200 ft riverfront to Cheesecake Brook. I have not been able to do a site visit because of snow. Existing plan shows no driveway or garage presently on the site. Impervious surface would increase by 71%. Applicant



has proposed the new house be slightly further from the river, but a long driveway is added to get to the garage. The rear garage is as far from river as can get, but necessitates a very long driveway. There is no way that the applicant can provide 2:1 mitigation for this increase, but the driveway is split into two strips to reduce the amount of impervious area on the lot. Engineering will require the increase in storm water run-off to be infiltrated. Owner offers to provide mitigation plantings in front yard closest to Cheesecake Brook, and list of plants with sizes is proposed. **But**, number of mitigation plantings is not provided and the distribution of plants on the plan looks sparse to me. Applicant has met provisions under 10.58(5)(a), (b), and partly met conditions under (c) and (g). Applicant cannot meet conditions under (e) with this plan. Although there is no written alternatives analysis, the Sr. Planner met with the architect and owner to discuss this project, and some recommendations have been incorporated to mitigate the impact of the proposed changes. If the commission agrees “the proposed work improves existing conditions,” I recommend the project be approved subject to conditions: applicant submit a revised planting plan with number of plants subject to approval by Sr. Planner, the mitigation planting area be an on-going condition (see 10.58(5)(h), and that no fertilizer be used in this area, and, ideally no pruning.

Meeting: Dan Furlong, owner, and representative Joe Porter, VTP Associates, were present. The commission agreed a site visit is probably not necessary. Applicant was asked why the planting plan submitted by EcoTec was not reflected on the site plan, which shows far fewer plantings. J. Porter said he thinks the EcoTec plan calls for too many plants for the site. **Motion by S. Lunin to issue an Order with the standard conditions and special condition that new plan be submitted with detailed planting plan showing number and species of plants, approved by the Env. Planner, and no fertilizer in that area and that planting area be on-going condition. Second by D. Green. Vote: All in favor. Motion passed.**

Certificates of Compliance

62 Brierfield Rd.

Report: Contractor has not removed excavator, which is actually stored on adjacent property. Recommend issue COC to owner of 62 Brierfield Rd. and issue Violation Notice to contractor and to owner of land on which excavator is stored.

Meeting: Env. Planner directed to send a letter to owner of property where excavator is parked, and continue to next meeting on February 24th, 2011.

100 Boulder Rd - awaiting word from owner that the haybales have been removed from flood zone;

21-23 Cross St. –needs site visit & remove rose of Sharon from mitigation area.

36 Hyde Av. – needs site visit.

Conservation Management Plan – brief discussion about scheduling next meeting. Commission asked it be put on February agenda to see that all “pieces” of the management plan be distributed to all, and discuss what else might be needed to complete.

December 16th meeting minutes for approval

Meeting: Following discussion, minutes were amended to add that the discussion of the dog park would be continued to the February 24th meeting. **Motion to approve as amended. Vote: All in favor.**

Announcements & General Business:

Packet contains CC Rules & MACC Handbook info on Associate Commissioners, per request of Commission.

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Added:

- 1) Policy on comment letters – written vs email;

Meeting: Chair, I. Wallach said he would make an executive decision to accept emailed comment letters.

- 2) Packets – paper or web;

Meeting: The commission members did not like the format of the electronic packets. Following discussion, the members agreed they would like to continue to have a hard-copy packet mailed to them. I. Wallach advised the Planner that Planner's notes should not be posted publicly prior to the meeting.

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner

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